

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

Stella B. Werner Council Office Building
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Rockville, Maryland 20850

www.montgomerycountymd.gov/content/council/boa/index.asp

(240) 777-6600

Case No. S-2832

PETITION OF MARIA LUCIA TELLEZ

OPINION OF THE BOARD

(Opinion Adopted July 11, 2012)

(Effective Date of Opinion: July 30, 2012)

Case No. S-2832 is an application for a special exception under Zoning Ordinance Section 59-G-2.00 to allow an accessory apartment. The subject property is Lot 15, Block J, Section 3, Northwood Park View Subdivision, located at 202 Hannes Street, Silver Spring, Maryland, 20901 in the R-60 Zone.

The Hearing Examiner for Montgomery County held a hearing on the application on May 10, 2012, closed the record in the case on May 18, 2012, and on June 13, 2012, issued a Report and Recommendation for approval of the special exception, with conditions.

Decision of the Board: Special Exception **Granted** Subject to
The Conditions Enumerated Below.

The Board of Appeals considered the Hearing Examiner's Report and Recommendation at its Worksession on July 11, 2012. After careful consideration and review of the record in the case, the Board deletes proposed Condition 7 in the Report and Recommendation. The Board finds that the Petitioner cannot make parking spaces available on the public street in front of her home and notes the Hearing Examiner's finding that there is one parking space available in the Petitioner's driveway and that "there is adequate on-street parking to permit fewer than the minimum requirement of two (2) off-street parking spaces." The Board adopts the Hearing Examiner's Report and Recommendation (except proposed Condition 7), and grants the special exception subject to the following conditions:

1. The Petitioner is bound by her testimony, representations and exhibits of record to the extent that such testimony and evidence are identified in the Hearing Examiner's Report and Recommendation and in this opinion;
2. The Petitioner must comply with the conditions set forth in the Memorandum of Unray Peters, Housing Code Inspector, Division of Housing and Code Enforcement (Exhibit 13):
 - a. The living room wall near the electrical outlet needs to be painted.
 - b. The tires located in side yard need to be removed from property.
 - c. The exterior landscaping needs to be maintained with regards to cutting grass throughout property;
3. Petitioner must comply with DHCA's determination of the maximum permitted occupancy for the accessory apartment (i.e., the accessory apartment may be occupied by no more than two (2) unrelated persons, or a family not to exceed four (4) persons), and other DHCA directives needed to ensure that the accessory apartment is maintained up to Code, as listed in Exhibit 13;
4. Petitioner must occupy one of the dwelling units on the lot on which the accessory apartment is located;
5. The accessory apartment must not be located on a lot that is occupied by a family of unrelated persons, or where there is a guest room for rent, a boardinghouse or registered living unit;
6. Petitioner must not receive compensation for the occupancy of more than one dwelling unit;
7. Petitioner must obtain and satisfy the requirements of all licenses and permits, including but not limited to building permits and use and occupancy permits necessary to occupy the special exception premises and operate the special exception as granted herein. Petitioner shall at all times ensure that the special exception use and premises comply with all applicable codes (including but not limited to building, life safety and handicapped accessibility requirements), regulations, directives and other governmental requirements.

On a motion by Catherine G. Titus, Chair, seconded by Stanley B. Boyd, with Carolyn J. Shawaker, Walter S. Booth and David K. Perdue, Vice-Chair, in agreement, the Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the opinion stated above is adopted as the Resolution required by law as its decision on the above-entitled petition.

Catherine G. Titus
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 30th day of July 2012.

Katherine Freeman
Executive Director

NOTE:

See Section 59-A-4.53 of the Zoning Ordinance regarding the twenty-four months' period within which the special exception granted by the Board must be exercised.

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure. It is each party's responsibility to participate in the Circuit Court action to protect their respective interests. In short, as a party you have a right to protect your interests in this matter by participating in the Circuit Court proceedings, and this right is unaffected by any participation by the County.